

SENATE BILL No. 384

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-2-6.

Synopsis: Indiana department of transportation (INDOT) contracts. Allows the commissioner of the Indiana department of transportation (INDOT), in exceptional circumstances, to enter into a contract with a person who does not meet all the requirements for contracting established in the rules adopted by INDOT. Requires the commissioner of INDOT to explain in writing why it was necessary to enter into a contract with a person who does not meet all the requirements for contracting established in the rules adopted by INDOT.

Effective: July 1, 2009.

Arnold

January 8, 2009, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 384

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-23-2-6, AS AMENDED BY P.L.235-2005,
2 SECTION 123, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The department, through the
4 commissioner or the commissioner's designee, may do the following:
5 (1) Acquire by purchase, gift, or condemnation, sell, abandon,
6 own in fee or a lesser interest, hold, or lease property in the name
7 of the state, or otherwise dispose of or encumber property to carry
8 out its responsibilities.
9 (2) Contract with persons outside the department to do those
10 things that in the commissioner's opinion cannot be adequately or
11 efficiently performed by the department. **If there are exceptional**
12 **circumstances that make it necessary for the department to**
13 **enter into a contract with a person who does not meet all the**
14 **requirements for contracting established in rules adopted by**
15 **the department, the commissioner may enter into a contact**
16 **with the person. If the commissioner enters into a contract**
17 **with a person who does not meet all the requirements**



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1 established in the rules adopted by the department, the
 2 commissioner shall, in writing, provide a justification
 3 explaining why it was necessary to enter into the contract. The
 4 commissioner shall attach the justification to the contract.

5 (3) Enter into:

6 (A) a contract with the Indiana finance authority under
 7 IC 8-9.5-8-7; or

8 (B) a lease with the Indiana finance authority under
 9 IC 8-9.5-8-8;

10 for the construction, reconstruction, improvement, maintenance,
 11 repair, or operation of toll road projects under IC 8-15-2 and toll
 12 bridges under IC 8-16-1.

13 (4) Sue and be sued, including, with the approval of the attorney
 14 general, the compromise of any claims of the department.

15 (5) Hire attorneys.

16 (6) Perform all functions pertaining to the acquisition of property
 17 for transportation purposes, including the compromise of any
 18 claims for compensation.

19 (7) Hold investigations and hearings concerning matters covered
 20 by orders and rules of the department.

21 (8) Execute all documents and instruments necessary to carry out
 22 its responsibilities.

23 (9) Make contracts and expenditures, perform acts, enter into
 24 agreements, and make rules, orders, and findings that are
 25 necessary to comply with all laws, rules, orders, findings,
 26 interpretations, and regulations promulgated by the federal
 27 government in order to:

28 (A) qualify the department for; and

29 (B) receive;

30 federal government funding on a full or participating basis.

31 (10) Adopt rules under IC 4-22-2 to carry out its responsibilities.

32 (11) Establish regional offices.

33 (12) Adopt a seal.

34 (13) Perform all actions necessary to carry out the department's
 35 responsibilities.

36 (14) Order a utility to relocate the utility's facilities and coordinate
 37 the relocation of customer service facilities if:

38 (A) the facilities are located in a highway, street, or road; and

39 (B) the department determines that the facilities will interfere
 40 with a planned highway or bridge construction or
 41 improvement project funded by the department.

42 (15) Reimburse a utility:

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- 1 (A) in whole or in part for extraordinary costs of relocation of
 2 facilities;
 3 (B) in whole for unnecessary relocations;
 4 (C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;
 5 (D) in whole for relocations covered by IC 8-1-9; and
 6 (E) to the extent that a relocation is a taking of property
 7 without just compensation.
 8 (16) Provide state matching funds and undertake any surface
 9 transportation project eligible for funding under federal law.
 10 However, money from the state highway fund and the state
 11 highway road construction and improvement fund may not be
 12 used to provide operating subsidies to support a public
 13 transportation system or a commuter transportation system.
 14 (b) In the performance of contracts and leases with the Indiana
 15 finance authority, the department has authority under IC 8-15-2, in the
 16 case of toll road projects, and IC 8-16-1, in the case of toll bridges,
 17 necessary to carry out the terms and conditions of those contracts and
 18 leases.
 19 (c) The department shall:
 20 (1) classify as confidential any estimate of cost prepared in
 21 conjunction with analyzing competitive bids for projects until a
 22 bid below the estimate of cost is read at the bid opening;
 23 (2) classify as confidential that part of the parcel files that contain
 24 appraisal and relocation documents prepared by the department's
 25 land acquisition division; and
 26 (3) classify as confidential records that are the product of systems
 27 designed to detect collusion in state procurement and contracting
 28 that, if made public, could impede detection of collusive behavior
 29 in securing state contracts.
 30 This subsection does not apply to parcel files of public agencies or
 31 affect IC 8-23-7-10.

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